

REMARKS

Claims 11-14 and 16-20 were rejected. Applicants have amended claims 11-14 and 16-20. Support for the amendment to independent claim 11 can be found at least at paragraphs 10, 13, 15, and 17 of the publication. No new matter is presented. Claims 11-14 and 16-20 are now pending in the application. The above amendments and the following remarks are considered by Applicants to overcome each rejection raised by the Examiner and to place the application in condition for allowance.

Rejection of claim 11 pursuant to 35 U.S.C. 102(b) (Harino)

The Examiner rejected claim 11 pursuant to 35 U.S.C. 102(b) as being anticipated by Harino (U.S. Pat. No. 6,238,385).

Harino discloses a laser treatment apparatus having a guide beam forming mechanism for guiding a treatment laser beam to a diseased part. As the Examiner has pointed out, Harino further discloses that “[w]hen the target mark which is to be projected to the fundus is formed so as to be movable, the guidance of the fixation can be appropriately conducted in accordance with the kind of the treatment.” (Harino, column 6:45-48.)

Harino, however, does not disclose “moving the fixation mark in the field of vision of the patient *during the treatment being carried out by the ophthalmologic treatment device*,” as required by amended independent claim 11. In accordance with this limitation, claim 11 further requires that “the *movement* of the fixation mark makes the eye less likely to move in a manner that would interfere with the treatment being carried out by the ophthalmologic treatment device.” Thus, claim 11 requires that the *movement* of the fixation mark *during the treatment* (and the eye’s following of that movement) prevents unwanted eye movement.

Harino does not disclose these limitations. Rather, even assuming *arguendo* that Harino discloses a moving fixation mark, the fixation mark is only moved to reach a new stationary position. The fixation mark is not moved during the treatment. Unwanted eye movements are prevented by the new stationary position of the fixation mark, not by the movement of the fixation mark during the treatment.

For these reasons, Harino does not disclose each limitation of independent claim 11, and therefore Applicants respectfully request withdrawal of the anticipation rejection.

Rejection of claims 11-14 and 16 pursuant to 35 U.S.C. 103(a) (Sponsel and Harino)

The Examiner rejected claims 11-14 and 16 pursuant to 35 U.S.C. 103(a) as being unpatentable over Sponsel (2004/0046934) in view of Harino.

Similar to Harino, Sponsel does not disclose (1) “moving the fixation mark in the field of vision of the patient during the treatment being carried out by the ophthalmologic treatment device,” or (2) that “the movement of the fixation mark makes the eye less likely to move in a manner that would interfere with the treatment being carried out by the ophthalmologic treatment device,” each of which are required by amended independent claim 11. Sponsel discloses moving an eye by a fixation mark to evaluate the visual acuity of the eye (by the recognition or non-recognition of the fixation mark). Sponsel does not disclose moving a fixation mark to help prevent the eye from moving in a manner that would interfere with a treatment being carried out by an ophthalmologic treatment device, a treatment unrelated to the eye’s ability to follow or recognize the fixation mark.

Further, it would not have been obvious to modify the teachings of Sponsel to arrive at the invention because Sponsel teaches away from the invention by providing a method directed to an entirely distinct purpose—namely, the determination of visual acuity by a patient’s ability to recognize or follow a fixation mark. For these reasons, it would not have been obvious to arrive at the claimed invention. Accordingly, Applicants request withdrawal of the rejection of claim 11 and its dependent claims 12-14 and 16.

Rejection of claims 17-20 pursuant to 35 U.S.C. 103(a) (Sponsel, Harino, and Jernigan)

The Examiner rejected claims 17-20 pursuant to 35 U.S.C. 103(a) as being unpatentable over Sponsel (2004/0046934) in view of Harino further in view of Jernigan (U.S. Pat. No. 3,984,156).

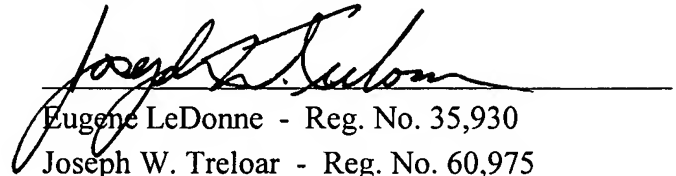
Similar to Harino and Sponsel, Jernigan does not disclose (1) “moving the fixation mark in the field of vision of the patient during the treatment being carried out by the ophthalmologic treatment device,” or (2) that “the movement of the fixation mark makes the eye less likely to move in a manner that would interfere with the treatment being carried out by the ophthalmologic treatment device,” each of which are required by amended independent claim 11.

Further, as discussed above, independent claim 11 is allowable. As claim 11 is allowable, so must be dependent claims 17-20. For these reasons, Applicants respectfully

request withdrawal of the obviousness rejection.

An early action on the merits of these claims is respectfully requested.

Respectfully submitted,

A handwritten signature in dark ink, appearing to read "Eugene LeDonne", is written over a horizontal line.

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